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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/153,621	09/15/1998	ROGER Q. SMITH	P-US-TN1444	5790
7590 10/04/2004			EXAMINER	
ADAN AYALA THE BLACK & DECKER CORPORATION 701 E JOPPA ROAD TW199 TOWSON, MD 21286			DINH, TUAN T	
			ART UNIT	PAPER NUMBER
			2841	

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/153,621

**Applicant(s)**

SMITH, ROGER Q.

**Examiner**

Tuan T Dinh

**Art Unit**

2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) 15-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>07/19/04</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

The request filed on July 19, 2004 for a Request for Continued Examination (RCE) under 37 CFR 1.114 based on parent Application No. 09/153,621 is acceptable and a RCE has been established. An action on the RCE follows.

Examiner considers the IDS filed on July 19, 2004.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated Healey (U. S. Patent 4,480,809).

As to claim 1, Healey discloses an audio-equipment (instrument equipment such as sonar type depth indicating instrument or the like, column 1, lines 7-8) as shown in figures 1-2 comprising:

a housing (10-figure 1, column 2, lines 18);

an audio circuitry inherently to the sonar (not shown) installed within the housing;

and

a first protective bar (16, column 2, line 25) flexibly connected (34, column 2, line 59) to the housing (sidewall 24 of housing 10-see figure 1). The bar is protective because it protects the housing from impact from underside of the housing.

As to claim 2, Healey discloses the audio equipment as shown in figures 1-2 further comprising a handle (14, column 2, line 22) attached (see figure 1) to the first protective bar (16).

As to claim 3, Healey discloses the audio equipment as shown in figures 1-2 further comprising a connector assembly (34, column 2, line 59) connecting the first protective bar (16) to the housing (10).

As to claims 4 and 5, Healey discloses the equipment as shown in figures 1-2 wherein the connector assembly (34) comprises a flexible gasket (30-figure 2, column 2, line 49), said flexible gasket disposed between the first protection bar (16) and the housing (sidewall 24 of housing 10).

As to claim 6, Healey discloses the audio equipment as shown in figures 1-2 further comprising a second protective bar (16, column 2, line 25) flexibly connected to the housing (the other side of the housing 10, bracket 12 having two bars 16 connecting by ends of base 14).

### ***Response to Arguments***

3. Applicant's arguments filed June 30, 2003 have been fully considered but they are not persuasive.

Applicant argues:

(a) Healy does not discloses "an audio circuitry" as recited in claim 1.

(b) Healy does not show "a protective bar flexibly connected to the housing."

**Examiner disagrees.**

Response to argument (a), Healey shows a instrument housing such as a sonar typed depth indicating instrument or the like (column 1, lines 7-8), the instrument housing is a device to product/perform a music (see Merriam Webster's Colligate Dictionary, page 606, column 2, page 607, column 1). The sonar typed instrument device is made of sounds or musical; therefore, the instrument device includes some types of audio card/board to product the sounds or music. Thus, the instrument device comprises an audio circuitry within an audio card/board to product the sounds or music.

Therefore, examiner believes that Healey is teach the instrument device inherently including the audio circuitry that required by the MPEP 2112, at 2100-51, for example: a computer system must have a motherboard as a main board to operate the system, or a motherboard must have a CPU as a main control module or a memory chip, etc...

Response to argument (b), Healey shows a bracket (12) having upstanding portions (16) as one of a protective bar flexibly connected (34) to a sidewall (24) of a housing (10), see column 1, lines 47-49. The protective bar (16) can protect the housing, at the very least, from the environmental impact like damaging mechanical forces during use or during handling or establish the protection bar not exclusively related to audio equipment can work for any thing.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan T Dinh whose telephone number is 571-272-1929. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kammie Cuneo can be reached on 571-272-1957. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tuan Dinh  
September 22, 2004.



**KAMAND CUNEO**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2800**